

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

GARY LEE SAMPSON

Cr. No. 01-10384-MLW

MEMORANDUM AND ORDER

WOLF, D.J.

June 24, 2015

At the June 23, 2015 hearing to discuss the implications of my interaction on July 27, 2014 with Dr. James Gilligan, the government stated that there is no contention that I am actually biased or prejudiced, which, if true, would require my disqualification under 28 U.S.C. §455(b). The government did, however, request additional information before developing a position on the sole open issue of whether a fully informed, reasonable person would question my impartiality; any such reasonable question would, absent a waiver from all parties, be a ground for recusal. See 28 U.S.C. §455(a) and (e); In re Bulger, 710 F.3d 42 (1st Cir. 2013); United States v. Sampson, 12 F. Supp. 3d 203, 205-08 (D. Mass. 2014).

On June 23, 2015, I responded to the government's questions concerning certain matters. In addition, I offered to attempt to obtain for the parties The Life and Mind of Mark DeFriest and video of the discussion that followed the showing of that film on July 27, 2014.

I hope to receive DVDs of the film on June 25, 2015, and will provide them to the parties promptly. I am informed that the film can be seen on Showtime On Demand.

In addition, I have received from the filmmaker, Gabriel London, video of most, but not all, of the discussion that followed the showing of the movie on July 27, 2014. Evidently, the beginning of the discussion, which I moderated, was not filmed. In any event, the video does not include my opening remarks, in which I stated, in effect, that my participation in the program should not be construed as an expression of my views on the particular points made in the movie or anything the panelists might say. There are, however, two references to that unrecorded statement in the video.¹ Copies of this DVD may be obtained by the parties from the Deputy Clerk.

¹ Starting at about 0:49, I stated: "[A]s I said, without taking a position with regard to Mark DeFriest or any particular point raised by the movie, it's really commendable that Gabriel has done this movie."

Beginning at about 17:14 I stated: "You're hearing . . . the expression of strong views. I don't mean to sound timid on this. It's not my role really to express my own, except to say that I think all of this is extremely valuable to expose judges, who are encouraged to do things that will enhance the understanding of the administration of justice."

I do not necessarily agree with every single thing Alan [Dershowitz] said or every single thing that Jim [Gilligan] said. I will say that these are issues that emerge in our cases, and how they're dealt with is substantially determined by the democratic process"

In view of the foregoing, it is hereby ORDERED that:

1. A further hearing will be held on June 26, 2015, at 10:30 a.m. If requested by 4:00 p.m. on June 25, 2015, counsel may participate by telephone.

2. If requested by either party, I will, at the June 26, 2015 hearing, establish a schedule for the briefing of the issue of my possible recusal under 28 U.S.C. §455(a).


UNITED STATES DISTRICT JUDGE